

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

COREY W. WELLS,)	
)	
Plaintiff,)	8:04cv246
)	
vs.)	MEMORANDUM AND ORDER
)	
DOUGLAS COUNTY,)	
)	
Defendant.)	

This matter is before the court on filing no. 14, the plaintiff's Motion to Reopen the above-entitled case. The plaintiff is correct that the case should be reopened. The court erred in closing the case prematurely, as the plaintiff was entitled to two more months to achieve service of process on the defendant. Therefore, the Clerk of Court shall reopen this case and reinstate the case to the court's active docket.

THEREFORE, IT IS ORDERED:

1. That filing no. 14 is granted, and this case is reinstated to the court's active docket;
2. That the Clerk of Court shall send the plaintiff a summons form and a USM-285 form; the plaintiff shall have thirty (30) days to return the forms to the Clerk of Court,¹ and the U.S. Marshal shall have thirty (30) days thereafter to serve the summons on the defendant for the plaintiff, as the plaintiff is proceeding in forma pauperis ("IFP");
3. That when completing the forms, the plaintiff shall comply with Neb. Rev. Stat. § 25-510.02(2), which states: "Any county, city, or village of this state may be served by personal, residence, or certified mail service upon the chief executive officer, or clerk;" the address of the County Clerk is: Douglas County Clerk, 1819 Farnam Street H08, Omaha, NE 68183.²
4. That upon receipt of the completed summons and USM-285 form, the Clerk of Court will sign the summons and forward it, together with a copy of the complaint, to the

¹If the plaintiff anticipates any problems meeting the deadline set forth above, he should contact the court before the deadline expires.

²The plaintiff should note that the USM-285 form requires his signature.

U.S. Marshal for service of process; the court will copy the complaint for the Marshal, and the plaintiff does not need to do so; the Marshal shall serve the summons and complaint without payment of costs or fees; service may be by certified mail pursuant to Fed. R. Civ. P. 4 and Nebraska law in the discretion of the Marshal;

5. That if the plaintiff fails to return the forms to the Clerk of Court as directed above, dismissal of this matter may occur without further notice; if he does return the forms, the U.S. Marshal will serve them on the defendant, and the defendant will have twenty (20) days after receipt of the summons to answer or otherwise respond to the complaint;

6. That once the defendant enters an appearance in the case, the plaintiff must include with each document submitted to the court a "Certificate of Service" stating the date a true and correct copy of such document was sent to the attorney for the defendant; to send communications to the court without serving a copy on the other parties to a case violates the rules of court; if the plaintiff does not include a Certificate of Service indicating that a copy of a communication to the court has been sent to the other parties to the case, the court will issue a Notice of Deficiency and might strike the plaintiff's communication from the record; and

7. That the plaintiff must remember that any pleading, letter, motion or other communication he files with the court must bear the plaintiff's signature.

October 30, 2006.

BY THE COURT:

s/ Richard G. Kopf
United States District Judge